



DEPARTMENT OF MENTAL HEALTH

DORN SCHUFFMAN, DEPARTMENT DIRECTOR



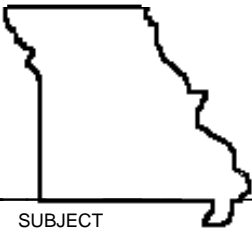
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CHAPTER Program Implementation and Records	SUBCHAPTER Release And Discharge Procedures	EFFECTIVE DATE 7/01/2005	NUMBER OF PAGES 6	PAGE NUMBER 1 of 6
SUBJECT Release of Criminally Committed Clients		AUTHORITY Sections 552.020, 552.040, 595.209, 575.195, and 630.050 RSMo	HISTORY See Below	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE 7/1/08	

PURPOSE: Prescribes policies and procedures for the release of clients committed under section 552.040, RSMo, 1994.

APPLICATION: Applies to facilities confining criminally committed clients.

- (1) For purposes of this DOR, the following terms mean:
 - (A) "Forensic client," a client committed under section 552.040, RSMo.
 - (B) "Immediate conditional release" an immediate release of a forensic client by the committing court if the client was not acquitted of a dangerous felony as defined by 556.061 RSMo., murder first degree, sexual assault or the attempts thereof and the certified forensic examiner supports such a release.
 - (C) "Conditional release," a release of a forensic client from a mental health or mental retardation facility subject to conditions set out by the appropriate court.
 - (D) "Trial release," release of a forensic client from a mental health or mental retardation facility for a period not to exceed ninety-six (96) hours.
 - (E) "Unconditional release," discharge of a forensic client from the department by order of the committing court.
 - (F) "Forensic review committee," a committee appointed by the head of the facility and consisting of the chief of medical staff, a psychiatrist or a licensed doctoral level psychologist with expertise in forensics (if available) or a physician in another specialty with forensic experience, and a mental health professional with experience in forensics who is not a physician, or a statewide MRDD committee appointed by the MRDD forensic coordinator as defined in the Forensic Review Committee section of the current Forensic Manual.
- (2) The department shall provide treatment in the least restrictive environment consistent with the needs of the client and the needs of public safety as set out by law for forensic clients. Forensic clients who in the clinical judgment of the treatment and habilitation staff, present a likelihood of serious physical harm to self or others, shall not be proposed or approved for trial, immediate conditional, conditional, or unconditional releases.
- (3) Mental health facilities serving forensic clients shall have a Forensic Review Committee to review treatment team proposals for trial releases, immediate conditional releases, conditional releases and unconditional releases of forensic clients and the Division of Mental Retardation and Developmental Disabilities shall have one statewide Forensic Review Committee to review habilitation team proposals for the same types of releases.
- (4) The facility head may permit a client committed under section 552.040 to leave the facility on trial release subject to conditions imposed by the head of the facility and for a period not to exceed ninety-six (96) hours. The following provisions shall apply:



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(A) The client's treatment or habilitation team shall submit any proposals for trial release to the Forensic Review Committee. The team shall complete and submit risk assessment information and the appropriate release request materials, with the proposal along with other supporting documentation. (See the Integrated Risk Assessment form and the Forensic Release Request form contained in the Appendix of the current Forensic Manual.

1. The committee shall submit written recommendations to the head of the facility regarding the proposals.

2. The head of the facility shall accept, reject or modify recommendations of the committee or return the proposals to the committee for further investigation.

3. If and when accepted, the head of the facility sends the application to the Director of Forensic Services and Assistant General Counsel for DMH.

(B) If the Forensic Review Committee, the head of the facility, and the Director of Forensic Services and the Assistant General Counsel for DMH determine that a trial release is appropriate, the facility head shall notify the prosecutor in the jurisdiction from where the client was tried and acquitted of the intent to give the trial release. Notice shall also be served upon the prosecutor of the jurisdiction into which the client is to be released. The facility head shall provide the notification by certified mail at least sixty (60) days before the proposed release. The notification shall contain conditions and duration of the release and shall be provided on DMH Form 8142, Notice of Intent to Release Client Committed Under Chapter 552, RSMo.

1. If a prosecutor does not object to the proposed trial release within thirty (30) days, the facility may release the client on trial release.

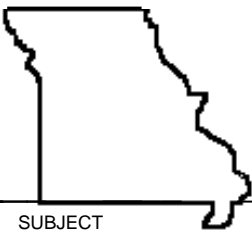
2. If the prosecutor objects to the trial release, the facility head shall not release the client on trial release without an order from the appropriate court. Thus, after receiving an objection, the head of the facility will work with the Assistant General Counsel to file the application for trial release with the court, which has probate jurisdiction over the facility.

(C) If no objection is received from a prosecutor or if the court issues an order allowing the trial release, the client's treatment or habilitation team shall complete and file in the client's records before the trial release DMH Form 8143, Trial release for Client Committed Under Chapter 552. Facility staff shall give one (1) copy to the client.

(D) Facility staff shall document in the client's medical file intent to give several trial releases to determine the client's readiness for conditional or unconditional release. Facility staff shall also document the client's response during the trial release(s).

(E) If the client does not adhere to the conditions or duration of the trial release, the forensic director shall follow the revocation process contained in DOR 4.470.

(5) A client committed under section 552.040 shall be conditionally released to a less restrictive environment by court order only. Clients who were acquitted of a dangerous felony as defined by 556.061 RSMo., murder first degree, sexual assault may only be released by the court where originally tried and acquitted. Clients acquitted of other crimes must file for conditional release in the court having probate jurisdiction where the mental health or mental retardation facility is located. Such release may include placement in the department supported community living program, to a community placement through a MR-DD regional center, with family or friends or in an independent or semi-independent living arrangement, and follow-up



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through the appropriate administrative agent/affiliate, or MR-DD regional center. The following provisions shall apply:

(A) The client's treatment/habilitation team shall submit any proposals for conditional release to the Forensic Review Committee. The team shall complete and submit risk assessment information and the appropriate release request materials with the proposal, along with other supporting documentation. The conditional release proposal shall be developed in consultation with the forensic case monitor, and whenever possible, with the administrative agent/affiliate or other community provider. The client shall sign the proposed conditions of release, and any subsequent amendments to those conditions. (Please see the Integrated Risk Assessment form and the Forensic Release Request form in the Appendix of the Forensic Manual.)

1. The committee shall submit written recommendations to the head of the facility regarding proposals.

2. The head of the facility shall accept, reject or modify recommendations of the committee or return the proposal to the committee for further investigation.

3. New Conditional Release

(a) Forensic Review Committee reviews application and recommends conditional release.

(b) Superintendent reviews Forensic Review Committee recommendation and approves conditional release.

(c) Application forwarded to Director of Forensic Services for independent review and entry into the database. Applications for clients acquitted of a dangerous felony as defined by 556.061 RSMo., murder first degree, sexual assault will receive independent review. The Director of Forensic Services may have any other application reviewed independently if deemed necessary.

(d) Director of Forensic Services conducts a review of the application. Additional information may be requested or changes may be required before the application can proceed. The Director of Forensic Services may ultimately disapprove of the release, which halts the application.

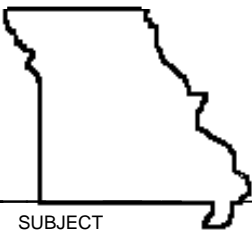
(e) The application and summary are reviewed by the General Counsel's Office to determine if the DMH will file the application. The Assistant General Counsel may consult with the General Counsel and the Director of Forensic Services as needed.

(f) The General Counsel's Office advises the Director of Forensic Services whether the DMH will file the application. If it is decided that DMH will not file the application, the client retains the ability to request that the application be filed by the Public Defender's Office, Legal Aid or a private attorney. If the client is indigent, he/she may petition the appropriate court, requesting that a public defender be appointed to represent their request for conditional release.

(g) If conditional release is approved by the Director of Forensic Services, the Director of Forensic Services notifies the Superintendent that the application has been approved and advises the Superintendent if the DMH will file the application or if the application must be filed by a public defender or private attorney.

(h) Application is filed.

4. The (Assistant) General Counsel will file the application for a Conditional Release with the appropriate court. If the original release was granted through an immediate conditional release matter prior to the involvement of an Assistant General Counsel,, then file with the committing court, and send copies of the filed application to:



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- (a) Prosecuting attorney of the county of original jurisdiction;
- (b) Prosecuting attorney of the county in which the facility is located (unless, it was an immediate conditional release);
- (c) The client (unless he/she files);
- (d) Director of the Department of Mental Health;-
- (e) Superintendent of the requesting facility (unless it was an immediate conditional release)

5. Any party objecting to the conditional release must do so in writing 30 days after being served notice of the pending release. The conditional release must be approved by the appropriate court.

6. Victim Notification process shall be initiated concurrent with the Review process;

7. Upon request by an indigent committed person, the appropriate court may appoint the public defender to represent that person in the conditional release hearing. Any such request shall be directed to the court.

8. The (Assistant) General Counsel assigned to the case will forward a copy of the signed court order authorizing the Conditional Release to the facility and to the Director of Forensic Services.

9. Trial, conditional and unconditional release hearings shall be open to the public;

(B) If another mental health or mental retardation facility (department or non-department facility) is to provide treatment to the client as a condition of release, the facility head shall obtain a written agreement to that effect before the release and shall provide the other mental health facility a copy of the conditions of release approved by the court.

(C) Facilities shall give forensic clients copies of court-approved conditions of their release before the release.

(6) A client committed under section 552.040 may receive an immediate conditional release if the following components are in place:

(A) The certified forensic examiner determines that a mental disease or defect is present; and

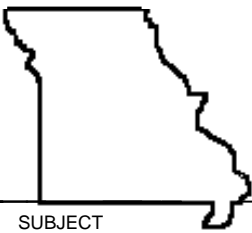
(B) The crime with which the client is charged is not a dangerous felony as defined by 556.061 RSMo., murder first degree , sexual assault, or the attempts thereof and;

(C) The certified forensic examiner is of the opinion that the client is appropriate to immediately release to the community; and

(D) The certified forensic examiner completes, or causes to have completed, an Integrated Risk Assessment for use in any subsequent release hearing and the Forensic Release Request form.

(E) If the certified forensic examiner renders an opinion supporting an immediate conditional release to the community, the evaluation shall include an opinion as to:

1. Location and degree of necessary supervision of housing;
2. Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;
3. Medication follow-up, including necessary testing to monitor medication compliance;



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4. At least monthly contact with the department's forensic case monitor; (Please note that the Certified Forensic Examiner shall consult with the Forensic Case Monitor as to the proposed conditions of release);

5. Any other conditions or supervision as may be warranted by the circumstances of the case;

(F) Staff of the evaluating facility shall be responsible for referral of this opinion for immediate conditional release to the Forensic Review Committee for consideration;

(G) Any necessary community referrals shall be made at the time of the mailing of the pretrial opinion to the respective court. This will facilitate follow-up in the community and case monitoring responsibilities;

(H) The Certified Forensic Examiner must be cognizant of the pretrial timelines, and a request for extension of time to complete the evaluation when an immediate conditional release is sought may be necessary;

(I) Pretrial social workers, administrative agents and affiliates, supported community living staff, forensic case monitors, facility social work departments, MR-DD personnel, or others should be asked to provide such resource information.

(J) Clients who are immediately conditionally released are still subject to escape from commitment charges; conditional release hearing requirements, with somewhat different notice provisions; and a follow-up by forensic case monitors;

(K) Any aftercare services recommended by the Certified Forensic Examiner should be initiated immediately upon the rendering of the opinion for immediate conditional release. The responsibility for such referrals shall not be the responsibility of the Forensic Case Monitor, but shall be the responsibility of the evaluating facility;

(L) The client should be oriented to the proposed conditions of release prior to the hearing. The responsible party for this is the Forensic Case Monitor. The client's signature shall be obtained on the aftercare plan.

(M) If the certified forensic examiner renders an opinion supporting an immediate conditional release, the court shall hold a hearing to determine if such a release is appropriate.

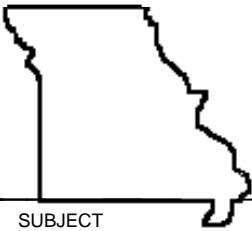
(N) The court conducts a hearing to determine if the release is appropriate, and includes, at a minimum, the following information in the conditional release order:

1. Location and degree of necessary supervision of housing;
2. Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;
3. Medication follow-up, including necessary testing to monitor medication compliance;
4. At least monthly contact with the department's forensic case monitor;
5. Any other conditions or supervision as may be warranted by the circumstances of the case.

(7) A client committed under section 552.040 may be unconditionally released only by order of the committing court where the client was tried and acquitted.

(A) Sections (5)(A) and (B) shall apply to application for unconditional release of forensic clients., and to the amendment, modification or extension of a conditional release.

(8) Victims of a dangerous felony as defined by 556.061 RSMo., murder first degree, voluntary manslaughter or an attempt to commit one of the preceding crimes shall



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automatically be notified of any release, release hearing, escape or death of a forensic client. Any other victims and witnesses, upon written request, shall be notified of the above. Each facility shall work in conjunction with the local courts and the DMH Assistant General Counsel regarding local patterns and practices pertaining to victim notification, and to ensure that such local patterns and practices are followed. The process for victim notification, as set forth in the current Forensic Manual, shall be followed in all requests for any type of release defined in this DOR.

(9) Any forensic client who escapes, or otherwise disappears while either an inpatient or habilitation center resident or on trial, immediate conditional, or conditional release shall be considered to have escaped from commitment to the department, and the department shall file escape from commitment charges pursuant to section 575.195, RSMo.

(10) Clients on immediate conditional or conditional release shall not travel out-of-state except with approval by the appropriate court, using the guidelines set forth in the most current edition of the Forensic Manual.

(11) Prior to any immediate conditional, conditional, or unconditional release application being filed with the appropriate courts, the forensic coordinator shall assure that:

- (A) Sex offender registration requirements have been met; and
- (B) That if the client is committed NGRI as a result of a sexually violent offense, that the forensic review committee has reviewed an assessment of the client to determine if the client meets the statutory definition of a sexually violent predator.

HISTORY. Original DOR effective April 15, 1982. Amendment effective January 15, 1988. Amendment effective July 1, 1997. Amendment effective August 1, 1998. Amendment effective July 1, 2002. Amendment effective July 1, 2005.